



MGA/eg3 2/11/2019

FILED

02/11/19
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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the
Commission's Own Motion into the
Operations, Practices and Conduct of the
San Jose Water Company (U168W)
Regarding Overbilling Practices.

Investigation 18-09-003

ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

Summary

This scoping memo and ruling sets forth the category, issues to be addressed, and schedule of the proceeding pursuant to Public Utilities (Pub. Util.) Code Section 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure.

1. Procedural Background

On September 14, 2018, after receipt of a detailed staff report from the Consumer Protection and Safety Division (CPSD), the Commission issued the Order Instituting Investigation (OII) in this matter. On October 15, 2018 San Jose Water Company filed a Response to the OII. A prehearing conference (PHC) was held on January 7, 2019 to discuss the issues of law and fact and determine the need for hearing and schedule for resolving the matter. After considering the CPSD staff report, the OII and the company's Response, and discussion at the

PHC, I have determined the issues and schedule of the proceeding to be as set forth in this scoping memo.

2. Issues

The issues to be determined are:

1. Did San Jose Water Company overbill its customers for water service during the period from January 1987 to June 2011?¹
2. If San Jose Water Company overbilled its customers during the above period, should the Commission fine San Jose Water Company or impose some other form of penalty on it?
3. Is this action subject to any statute of limitations including, but not limited to, Section 736 of the Public Utilities Code?

Issue no. 1 is a contested material issue of fact. Accordingly, evidentiary hearing is needed on this issue.

3. Schedule

The following schedule is adopted here and may be modified by the Administrative Law Judge (ALJ) as required to promote the efficient and fair resolution of the Investigation:

Intervenors' prepared direct testimony served	March 18, 2019
Prepared rebuttal testimony served	April 8, 2019
Surrebuttal testimony served	May 6, 2019
Evidentiary hearing	June 3 and 4, 2019

¹ In D.18-11-025 the Commission approved a settlement in the San Jose Water Company General Rate Case. The settlement included refunds to customers of amounts overbilled by San Jose Water from 2011 to 2016. From 2016 to the present, San Jose Water has not overbilled its customers. Accordingly, the period covered by the OII is the period from January 1987 to June 2011.

Opening briefs	July 1, 2019
Reply briefs [matter submitted]	July 15, 2019
Proposed decision	August 2019
Commission decision	September 2019

The proceeding will stand submitted upon the filing of reply briefs, unless the ALJ requires further evidence or argument. Based on this schedule, the proceeding will be resolved within 12 months as required by Pub. Util. Code § 1701.2(i).

4. Category of Proceeding/*Ex Parte* Restrictions

The Commission determined that this is an adjudicatory proceeding. Accordingly, *ex parte* communications are prohibited pursuant to Article 8 of the Commission's Rules of Practice and Procedure.

5. Public Outreach

Pursuant to Pub. Util. Code § 1711(a), I hereby report that the Commission sought the participation of those likely to be affected by this matter by noticing it in the Commission's monthly newsletter that is served on communities and businesses that subscribe to it and posted on the Commission's website.

In addition, the Commission served the OII on San Jose Water Company and named it as respondent.

6. Intervenor Compensation

Pursuant to Pub. Util. Code § 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by February 6, 2019, 30 days after the PHC.

7. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao/> or contact the Commission's Public Advisor at 866-849-8390 or 415-703-2074 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

8. Service of Documents on Commissioners and Their Personal Advisors

Rule 1.10 requires only electronic service on any person on the official service list, other than the ALJ.

When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide electronic service. Parties must not send hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

9. Assignment of Proceeding

Martha Guzman Aceves is the assigned Commissioner and Karl J. Bemesderfer is the assigned ALJ for the proceeding.

IT IS RULED that:

1. The scope of this proceeding is described above.
2. The schedule of this proceeding is as set forth above.

3. Evidentiary hearings are needed.
4. The presiding officer is Administrative Law Judge Karl J. Bemesderfer.

Dated February 11, 2019, at San Francisco, California.

/s/ MARTHA GUZMAN ACEVES

Martha Guzman Aceves
Assigned Commissioner